

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 784

Introduced by Assembly Member Gaines

February 26, 2009

An act to amend Sections 700 and 703 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 784, as amended, Gaines. Insurance transactions: nonadmitted insurers.

Existing law regulates the business of insurance and prohibits persons from transacting any class of insurance within this state without first being admitted for that class and makes a violation of that prohibition a crime.

This bill would provide that a nonadmitted insurer that is affiliated with a California domestic insurer shall not be deemed to be transacting insurance in California ~~so~~ as long as all California business written by the nonadmitted insurer is transacted by and through a surplus lines broker licensed in California. The bill would also authorize a nonadmitted insurer to receive administrative services rendered in California by its California domestic insurer affiliate or any other affiliate ~~so~~ as long as the administrative services do not relate to the placement or transaction of any California risk or constitute management of the nonadmitted insurer. The bill would also permit a nonadmitted insurer and its California domestic affiliate to have common directors

and officers ~~so~~ as long as the nonadmitted insurer maintains a resident operating manager in its home state, as specified.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 700 of the Insurance Code is amended
2 to read:

3 700. (a) A person shall not transact any class of insurance
4 business in this state without first being admitted for that class.
5 Except for the State Compensation Insurance Fund as authorized
6 by Sections 11770 and 11778 to 11780.5, inclusive, admission is
7 secured by procuring a certificate of authority from the
8 commissioner. The certificate shall not be granted until the
9 applicant conforms to the requirements of this code and of the laws
10 of this state prerequisite to its issue.

11 (b) The unlawful transaction of insurance business in this state
12 in willful violation of the requirement for a certificate of authority
13 is a public offense punishable by imprisonment in the state prison,
14 or in a county jail not exceeding one year, or by fine not exceeding
15 one hundred thousand dollars (\$100,000), or by both that fine and
16 imprisonment, and shall be enjoined by a court of competent
17 jurisdiction on petition of the commissioner.

18 (c) After the issuance of a certificate of authority, the holder
19 shall continue to comply with the requirements as to its business
20 set forth in this code and in the other laws of this state, including,
21 but not limited to, Chapter 5 (commencing with Section 1631),
22 with regard to employees or contractors who solicit, negotiate, or
23 effect insurance.

24 (d) Where a hearing is held under this section the proceedings
25 shall be conducted in accordance with Chapter 5 (commencing
26 with Section 11500) of Part 1 of Division 3 of Title 2 of the
27 Government Code, and the commissioner shall have all the powers
28 granted therein.

29 (e) The commissioner shall either issue or deny an application
30 for a certificate of authority within 180 calendar days after the date
31 of the application.

32 (f) The commissioner and his or her authorized representative
33 shall be prohibited from seeking a waiver to extend the 180

1 calendar day period specified in subdivision (e), nor shall the
2 applicant be permitted to waive that period.

3 (g) (1) A nonadmitted insurer that is affiliated with a California
4 domestic insurer shall not be deemed to be transacting insurance
5 in California ~~so~~ as long as all California business written by the
6 nonadmitted insurer is transacted by and through a surplus lines
7 broker licensed in California. A nonadmitted insurer may receive
8 administrative services rendered in California by its California
9 domestic insurer affiliate or any other affiliate ~~so~~ as long as the
10 administrative services do not relate to the placement or transaction
11 of any California risk or constitute management of the nonadmitted
12 insurer.

13 (2) A nonadmitted insurer and its California domestic affiliate
14 may have common directors and officers ~~so~~ as long as the
15 nonadmitted insurer maintains a resident operating manager in its
16 home state who is responsible for and carries out all transaction
17 and management functions in its home state.

18 SEC. 2. Section 703 of the Insurance Code is amended to read:

19 703. Except when performed by a surplus line broker or
20 permitted by subdivision (g) of Section 700, the following acts are
21 misdemeanors when done in this state:

22 (a) Acting as agent for a nonadmitted insurer in the transaction
23 of insurance business in this state.

24 (b) In any manner advertising a nonadmitted insurer in this state.

25 (c) In any other manner aiding a nonadmitted insurer to transact
26 insurance business in this state.

27 In addition to any penalty provided for commission of
28 misdemeanors, a person violating any provision of this section
29 shall forfeit to this state the sum of five hundred dollars (\$500),
30 together with one hundred dollars (\$100) for each month or fraction
31 thereof during which he or she continues the violation. This section
32 shall not apply to advertising authorized by Section 703.1,
33 subdivision (h) of Section 1760.5, or Section 1773.